

STATE OF INDIANA

MICHAEL R. PENCE, Governor

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November 18, 2015

Mr. Mario L. Sims 608 South St. Joseph Street South Bend, Indiana 46601

Re: Formal Complaint 15-FC-270; Alleged Violation of the Access to Public Records Act by the City of South Bend Law Department

Dear Mr. Sims,

This advisory opinion is in response to your formal complaint alleging the City of South Bend Law Department ("Department") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The Department responded via Ms. Andrea Huntington, Esq., Assistant City Attorney. Her response is enclosed for your review.

Your complaint dated October 6, 2015, alleges the City of South Bend Law Department violated the Access to Public Records Act by not providing access to the requested documents.

On January 15, 2015, you requested to inspect audio recordings illegally taken by a member of the South Bend Police Department. You were told the City would not be fulfilling your request until the appellate process has concluded. You resubmitted your request in September 2015 and received the same response on September 24, 2015.

My understanding of the matter is the issue of disclosability is pending before several State and Federal courts. Please be advised Ind. Code § 5-14-4-10(6) prohibits me from issuing a formal opinion on a matter in which a lawsuit has been filed. Because access and disclosability are germane to the lawsuit, I interpret the statute to prevent me from rendering a conclusion at this time.

Regards,



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Cc: Ms. Andrea Huntington, Esq.